

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 9, 2006

AMENDED IN ASSEMBLY AUGUST 7, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE APRIL 20, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1755

Introduced by Senator Chesbro

February 24, 2006

An act to *amend Section 14571 of*, to add Sections 14521.1, 14522.3, 14526.1, 14528.1, 14550.5, 14571.1, 14571.2, and 14571.5 to, and to repeal and add Section 14525 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1755, as amended, Chesbro. Medi-Cal: adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Health Services and the California Department of Aging pursuant to an interagency agreement.

The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria. Under existing law, participation in an adult day

health care program requires prior authorization by the State Department of Health Services.

This bill would revise the eligibility criteria for adult day health care services.

The bill would allow initial and subsequent treatment authorization requests to be granted for up to six calendar months. It would require that treatment authorization requests be initiated by the adult day health care center and include specified elements, and that authorization or reauthorization of a treatment request be granted only if the participant meets certain medical necessity criteria.

The bill would require that a participant's personal health care provider, as defined, have and retain responsibility for the participant's care. The bill would impose specified duties on an adult day health care center with respect to a participant who does not have a personal health care provider.

Existing law requires adult day health centers to offer, and provide directly on the premises, specified services.

This bill would require adult day health centers to offer, and provide directly on the premises, in accordance with the participant's individual plan of care, and subject to authorization, specified core services to each participant during each day of the participant's attendance at the center, including nursing services, personal care or social services, therapeutic activities, and one meal.

Existing law requires the department to develop a rate methodology for adult day health care services. *Existing law requires the department to establish a reasonable rate for the initial assessment.*

This bill would require that the rate for the initial assessment be separately billable and that it take into account specified factors. It would require that subsequent assessments be billed at a lesser amount and that the department establish utilization controls for assessment days to ensure the appropriate use of assessment and reassessment activity.

This bill would require the department, in addition, effective August 1, 2010, to establish a reimbursement methodology and a reimbursement limit for adult day health care services on a prospective cost basis for services that are provided to each participant, pursuant to his or her individual plan of care, as specified. The bill would require that these provisions be implemented only to the extent that federal financial participation is available.

The bill would require that federally qualified health centers be reimbursed on a prospective payment system rate basis pursuant to specified provisions of law for the provision of adult day health care services.

The bill would require the department to report annually to the relevant policy and fiscal committees of the Legislature, as part of the budget submitted by the Governor to the Legislature each January, on the implementation of the changes described above to the adult day health care program, including the impact of those changes on the number of centers and participants.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14521.1 is added to the Welfare and
2 Institutions Code, to read:
3 14521.1. (a) Effective January 1, 2007, the department shall
4 report annually to the relevant policy and fiscal committees of
5 the Legislature, as part of the budget submitted by the Governor
6 to the Legislature each January, on the implementation of
7 changes made to the adult day health care program by the act
8 adding this section, including the impact of those changes on the
9 number of centers and participants.
10 (b) Where a conflict exists between existing regulations and
11 adult day health care laws in effect on and after January 1, 2007,
12 the department shall, until new regulations are adopted, issue
13 guidance to adult day health care providers through provider
14 bulletins to clarify the adult day health care laws and regulations
15 that are in effect.
16 SEC. 2. Section 14522.3 is added to the Welfare and
17 Institutions Code, to read:
18 14522.3. The following definitions shall apply for the
19 purposes of this chapter:
20 (a) “Activities of daily living” (ADL) means activities
21 performed by the participant for essential living purposes,
22 including bathing, dressing, self-feeding, toileting, ambulation,
23 and transferring.
24 (b) “Instrumental activities of daily living” (IADL) means
25 functions or tasks of independent living, including hygiene,

1 medication management, transportation, money management,
2 shopping, meal preparation, laundry, accessing resources, and
3 housework.

4 (c) “Personal health care provider” means the participant’s
5 personal physician, physician’s assistant, or nurse practitioner,
6 operating within his or her scope of practice.

7 (d) “Care coordination” means the process of obtaining
8 information from, or providing information to, the participant,
9 the participant’s family, the participant’s primary health care
10 provider, or social services agencies to facilitate the delivery of
11 services designed to meet the needs of the participant, as
12 identified by one or more members of the multidisciplinary team.

13 (e) “Facilitated participation” means an interaction to support
14 a participant’s involvement in a group or individual activity,
15 whether or not the participant takes active part in the activity
16 itself.

17 (f) “Group work” means a social work service in which a
18 variety of therapeutic methods are applied within a small group
19 setting to promote participants’ self-expression and positive
20 adaptation to their environment.

21 (g) “Professional nursing” means services provided by a
22 registered nurse or licensed vocational nurse functioning within
23 his or her scope of practice.

24 (h) “Psychosocial” means a participant’s psychological status
25 in relation to the participant’s social and physical environment.

26 SEC. 3. Section 14525 of the Welfare and Institutions Code
27 is repealed.

28 SEC. 4. Section 14525 is added to the Welfare and
29 Institutions Code, to read:

30 14525. Any adult eligible for benefits under Chapter 7
31 (commencing with Section 14000) shall be eligible for adult day
32 health care services if that person meets all of the following
33 criteria:

34 (a) The person is 18 years of age or older and has one or more
35 chronic or postacute medical, cognitive, or mental health
36 conditions, and a physician, nurse practitioner, or other health
37 care provider has, within his or her scope of practice, requested
38 adult day health care services for the person.

39 (b) The person has functional impairments in two or more
40 activities of daily living, instrumental activities of daily living, or

1 one or more of each, and requires assistance or supervision in
2 performing these activities.

3 (c) The person requires ongoing or intermittent protective
4 supervision, skilled observation, assessment, or intervention by a
5 skilled health or mental health professional to improve, stabilize,
6 maintain, or minimize deterioration of the medical, cognitive, or
7 mental health condition.

8 (d) The person requires adult day health care services, as
9 defined in Section 14550, that are individualized and planned,
10 including, when necessary, the coordination of formal and
11 informal services outside of the adult day health care program to
12 support the individual and his or her family or caregiver in the
13 living arrangement of his or her choice and to avoid or delay the
14 use of institutional services, including, but not limited to, hospital
15 emergency department services, inpatient acute care hospital
16 services, inpatient mental health services, or placement in a
17 nursing facility or a nursing or intermediate care facility for the
18 developmentally disabled providing continuous nursing care.

19 (e) Notwithstanding the criteria established in subdivisions (a)
20 to (d), inclusive, of this section, any person who is a resident of
21 an intermediate care facility for the developmentally
22 disabled-habilitative shall be eligible for adult day health care
23 services if that resident has disabilities and a level of functioning
24 that are of such a nature that, without supplemental intervention
25 through adult day health care, placement to a more costly
26 institutional level of care would be likely to occur.

27 SEC. 5. Section 14526.1 is added to the Welfare and
28 Institutions Code, to read:

29 14526.1. (a) Initial and subsequent treatment authorization
30 requests may be granted for up to six calendar months.

31 (b) Treatment authorization requests shall be initiated by the
32 adult day health care center, and shall include all of the
33 following:

34 (1) The signature page of the history and physical form that
35 shall serve to document the request for adult day health care
36 services. A complete history and physical form, including a
37 request for adult day health care services signed by the
38 participant's personal health care provider, shall be maintained in
39 the participant's health record. This history and physical form
40 shall be developed by the department and published in the

1 inpatient/outpatient provider manual. The department shall
2 develop this form jointly with the statewide association
3 representing adult day health care providers.

4 (2) The participant's individual plan of care, ~~approved and~~
5 ~~signed by the participant's personal health care provider or,~~
6 ~~pursuant to Section 14528.1, the adult day health care center staff~~
7 ~~physician, and by the appropriate members of the~~
8 ~~multidisciplinary team,~~ pursuant to Section 54211 of Title 22 of
9 the California Code of Regulations.

10 (c) Every six months, the adult day health care center shall
11 initiate a request for an updated history and physical form from
12 the participant's personal health care provider using a standard
13 update form that shall be maintained in the participant's health
14 record. This update form shall be developed by the department
15 for that use and shall be published in the inpatient/outpatient
16 provider manual. The department shall develop this form jointly
17 with the statewide association representing adult day health care
18 providers.

19 (d) Authorization or reauthorization of an adult day health care
20 treatment authorization request shall be granted only if the
21 participant meets all of the following medical necessity criteria:

22 (1) The participant has one or more chronic or post acute
23 medical, cognitive, or mental health conditions that are identified
24 by the participant's personal health care provider as requiring one
25 or more of the following, without which the participant's
26 condition will likely deteriorate and require emergency
27 department visits, hospitalization, or other institutionalization:

28 (A) Monitoring.

29 (B) Treatment.

30 (C) Intervention.

31 (2) The participant has a condition or conditions resulting in
32 both of the following:

33 (A) Limitations in the performance of two or more activities of
34 daily living or instrumental activities of daily living, as those
35 terms are defined in Section 14522.3, or one or more from each
36 category.

37 (B) A need for assistance or supervision in performing the
38 activities identified in subparagraph (A) as related to the
39 condition or conditions specified in paragraph (1) of subdivision

40 (d). That assistance or supervision shall be in addition to any

1 other nonadult day health care support the participant is currently
2 receiving in his or her place of residence.

3 (3) The participant's network of non-adult day health care
4 center supports is insufficient to maintain the individual in the
5 community, demonstrated by at least one of the following:

6 (A) The participant lives alone and has no family or caregivers
7 available to provide sufficient and necessary care or supervision.

8 (B) The participant resides with one or more related or
9 unrelated individuals, but they are unwilling or unable to provide
10 sufficient and necessary care or supervision to the participant.

11 (C) The participant has family or caregivers available, but
12 those individuals require respite in order to continue providing
13 sufficient and necessary care or supervision to the participant.

14 (4) A high potential exists for the deterioration of the
15 participant's medical, cognitive, or mental health condition or
16 conditions in a manner likely to result in emergency department
17 visits, hospitalization, or other institutionalization if adult day
18 health care services are not provided.

19 (5) The participant's condition or conditions require adult day
20 health care services specified in subdivisions (a) to (d), inclusive,
21 of Section 14550.5, on each day of attendance, that are
22 individualized and designed to maintain the ability of the
23 participant to remain in the community and avoid emergency
24 department visits, hospitalizations, or other institutionalization.

25 (e) Reauthorization of an adult day health care treatment
26 authorization request shall be granted when the criteria specified
27 in subdivision (d) have been met and the participant's condition
28 would likely deteriorate if the adult day health care services were
29 denied.

30 SEC. 6. Section 14528.1 is added to the Welfare and
31 Institutions Code, to read:

32 14528.1. (a) The personal health care provider, as defined in
33 Section 14552.3, shall have and retain responsibility for the
34 participant's care.

35 (b) If the participant does not have a personal health care
36 provider during the initial assessment process to determine
37 eligibility for adult day health care, the adult day health care
38 center staff physician may conduct the initial history and physical
39 for the participant.

1 (c) The adult day health care center shall make all reasonable
2 efforts to assist the participant in establishing a relationship with
3 a personal health care provider.

4 (d) If the adult day health care center is unable to locate a
5 personal health care provider for the participant, or if the
6 participant refuses to establish a relationship with a personal
7 health care provider, the adult day health care center shall do
8 both of the following:

9 (1) Document the lack of personal health care provider
10 relationship in the participant's health record.

11 (2) Continue to document all efforts taken to assist the
12 participant in establishing a relationship with a personal health
13 care provider.

14 (e) (1) A personal physician for one or more of an adult day
15 health care center's enrolled participants may serve as the adult
16 day health care staff physician.

17 (2) When a personal physician serves as the staff physician,
18 the physician shall have a personal care services arrangement
19 with the adult day health care center that meets the criteria set
20 forth in Section 1395nn(e)(3)(A) of Title 42 of the United States
21 Code.

22 (3) A personal care physician, an adult day health care staff
23 physician, or an immediate family member of the personal care
24 physician or adult day health care staff physician, shall comply
25 with ownership interest restrictions as provided under Section
26 654.2 of the Business and Professions Code.

27 SEC. 7. Section 14550.5 is added to the Welfare and
28 Institutions Code, to read:

29 14550.5. Adult day health care centers shall offer, and
30 provide directly on the premises, in accordance with the
31 participant's individual plan of care, and subject to authorization
32 pursuant to Section 14526, the following core services to each
33 participant during each day of the participant's attendance at the
34 center:

35 (a) One or more of the following professional nursing
36 services:

37 (1) Observation, assessment, and monitoring of the
38 participant's general health status and changes in his or her
39 condition, risk factors, and the participant's specific medical,

1 cognitive, or mental health condition or conditions upon which
2 admission to the adult day health care center was based.

3 (2) Monitoring and assessment of the participant's medication
4 regimen, administration and recording of the participant's
5 prescribed medications, and intervention, as needed, based upon
6 the assessment and the participant's reactions to his or her
7 medications.

8 (3) Oral or written communication with the participant's
9 personal health care provider, other qualified health care or social
10 service provider, or the participant's family or other caregiver,
11 regarding changes in the participant's condition, signs, or
12 symptoms.

13 (4) Supervision of the provision of personal care services for
14 the participant, and assistance, as needed.

15 (5) Provision of skilled nursing care and intervention, within
16 scope of practice, to participants, as needed, based upon an
17 assessment of the participant, his or her ability to provide
18 self-care while at the adult day health care center, and any health
19 care provider orders.

20 (b) One or both of the following core personal care services or
21 social services:

22 (1) One or both of the following personal care services:

23 (A) Supervision of, or assistance with, activities of daily living
24 or instrumental activities of daily living.

25 (B) Protective group supervision and interventions to assure
26 participant safety and to minimize the risk of injury, accident,
27 inappropriate behavior, or wandering.

28 (2) One or more of the following social services provided by
29 the adult day health care center social worker or social worker
30 assistant:

31 (A) Observation, assessment, and monitoring of the
32 participant's psychosocial status.

33 (B) Group work to address psychosocial issues.

34 (C) Care coordination.

35 (c) At least one of the following therapeutic activities provided
36 by the adult day health care center activity coordinator or other
37 trained adult day health care center personnel:

38 (1) Group or individual activities to enhance the social,
39 physical, or cognitive functioning of the participant.

(2) Facilitated participation in group or individual activities for those participants whose frailty or cognitive functioning level precludes them from active participation in scheduled activities.

(d) One meal per day of attendance, in accordance with Section 54331 of Title 22 of the California Code of Regulations.

SEC. 8. Section 14571 of the Welfare and Institutions Code is amended to read:

14571. The department, in consultation with the California Association for Adult Day Services, shall develop a rate methodology. The methodology shall take into consideration all allowable costs associated with providing adult day health care services. Once a methodology has been approved by the department, it shall be the basis of future annual rate reviews.

Payment shall be for services provided in accordance with an approved individual plan of care. Billing shall be submitted directly to the department. Additionally, the department shall establish a *separately billable and* reasonable rate of reimbursement for the initial assessment *that takes into account the intensity of services and the skill level of the health professionals required to conduct the mandated three-day assessment of new participant needs and living environment. Subsequent assessments, as needed or required, shall be billed at a lesser amount. The department shall establish utilization controls for assessment days to ensure the appropriate use of assessment and reassessment activity.*

Nothing in this section shall preclude the department from entering into specific prospective budgeting and reimbursement agreements with providers.

~~SEC. 8.~~

SEC. 9. Section 14571.1 is added to the Welfare and Institutions Code, to read:

14571.1. The Legislature finds and declares all of the following:

(a) Adult day health care is a necessary component in achieving an integrated home- and community-based long-term care system consistent with the principles of the decision of the United States Supreme Court in *Olmstead v. L.C. by Zimring* (1999) 527 U.S. 581.

(b) The federal Centers for Medicare and Medicaid Services has directed the State of California to segregate certain skilled

1 services from the all-inclusive per diem rate currently in use for
2 adult day health care centers and to bill for those services using
3 separate billing codes and reimbursement rates.

4 (c) The reimbursement methodology for adult day health care
5 services that is established by the department should provide for
6 fair and equitable reimbursement to adult day health care centers
7 for services that are provided to each participant.

8 ~~SEC. 9.~~

9 *SEC. 10.* Section 14571.2 is added to the Welfare and
10 Institutions Code, to read:

11 14571.2. (a) Subject to the provisions of this section, the
12 department shall establish, effective August 1, 2010, a
13 reimbursement methodology and a reimbursement limit for adult
14 day health care services on a prospective cost basis for services
15 that are provided to each participant, pursuant to his or her
16 individual plan of care. The prospective reimbursement
17 methodology shall be determined by the department after
18 consultation with the California Association for Adult Day
19 Services and other interested stakeholders.

20 (b) The following definitions shall apply for purposes of this
21 section:

22 (1) "Daily core services" means the services described in
23 Section 14550.5.

24 (2) "Separately billable services" means services designated
25 by the department, after consultation with the California
26 Association for Adult Day Services, and shall include, but not be
27 limited to, the following:

28 (A) Physical therapy services.

29 (B) Occupational therapy services.

30 (C) Speech and language pathology services.

31 (D) Mental health services.

32 (E) Registered dietitian services.

33 (F) Transportation services.

34 (c) ~~(4)~~ The prospective reimbursement methodology for the
35 daily core services provided by each adult day health care center
36 shall be determined by the department based on the reasonable
37 cost of providing all of the adult day health care services
38 included within the core services and adjusted to the particular
39 rate year. Services and costs included in the calculation of the

1 daily core services rate shall include, but not be limited to, all of
2 the following:

3 ~~(A) (i)~~

4 ~~(1) Fixed or capital-related costs representing depreciation,~~
5 ~~leases and rentals, interest, leasehold improvements, and other~~
6 ~~amortization.~~

7 ~~(ii) Capital costs shall be included based on a fair rental value~~
8 ~~system.~~

9 ~~(B) (i)~~

10 ~~(2) Labor costs other than those for the separately billable~~
11 ~~services, including direct and indirect labor and contracted staff~~
12 ~~hours required by law or regulation.~~

13 ~~(ii) Direct patient care labor costs shall be paid at a specified~~
14 ~~discrete percentile to ensure maintenance of quality of care.~~

15 ~~(C) Passthrough costs, meaning those cost components~~
16 ~~externally determined and not under the ability to be controlled~~
17 ~~or managed by the adult day health care center, shall be paid at~~
18 ~~each center's incurred cost and adjusted to the applicable rate~~
19 ~~year, including all of the following:~~

20 ~~(i) Property taxes.~~

21 ~~(ii) Worker's compensation insurance.~~

22 ~~(iii) Liability insurance.~~

23 ~~(D)~~

24 ~~(3) All other costs exclusive of fixed or capital-related costs,~~
25 ~~leases or rentals, interest, leasehold improvements, and other~~
26 ~~amortization.~~

27 ~~(E)~~

28 ~~(4) Add-ons, adjustments, and audit adjustments determined~~
29 ~~annually in the calculation of the core rate to allow for changes~~
30 ~~specified in subdivision (h), until those changes are reflected in~~
31 ~~the cost report.~~

32 ~~(F) In-kind contributions, which shall be assigned a fair~~
33 ~~market value for the purposes of calculating the daily core~~
34 ~~bundled rate.~~

35 ~~(G)~~

36 ~~(5) Cost components required to comply with licensing and~~
37 ~~certification laws and regulations.~~

38 ~~(d) (1) The daily reimbursement rates for the separately~~
39 ~~billable services shall be determined based upon the reasonable~~
40 ~~cost of providing each service by peer group, how each of the~~

1 individual billable services is defined, and which professional is
2 providing the service, subject to the scope of his or her license.
3 *These reimbursement rates shall not exceed the Medi-Cal rates*
4 *for the same service on file at the time the service is rendered.*

5 (2) In establishing the total reimbursement limit, direct patient
6 care labor costs—~~shall~~ *may* be paid at a specified discrete
7 percentile to ensure maintenance of quality of care.

8 (e) The department shall determine a reimbursement limit
9 applicable to each adult day health center peer group established
10 pursuant to subdivision (m), taking into account total overall
11 average costs per day of attendance for providing the entire array
12 of adult day health care services, including the daily core services
13 and the separately billable services. *The department shall*
14 *determine a reimbursement limit applicable to each adult day*
15 *health care center peer group established pursuant to*
16 *subdivision (m) based on cost containment principles applied to*
17 *other acute care and long-term care providers.*

18 (f) By July 1, 2007, the department shall develop, after
19 consultation with the California Association for Adult Day
20 Services, all of the following:

21 (1) An adult day health care center cost report meeting the
22 requirements of subdivision (j) and a list of individual
23 components to be included in the core rate calculation.

24 (2) The methodology and documentation necessary to
25 establish the reimbursement rate for the separately billable
26 services.

27 (3) The reimbursement rates for transportation services.
28 Payments for transportation services shall be subject to the limit
29 on the daily reimbursement and shall be reimbursed whether the
30 center provides transportation directly, by use of contracted
31 transportation, or both. The department shall review
32 methodologies for payment for transportation services. The
33 review of payment methodologies shall include a survey of other
34 states' adult day health care transportation systems, and
35 transportation reports or expert consultation relevant to
36 nonemergency medical transportation services in the community.

37 (g) (1) By January 1, 2008, the department shall facilitate the
38 training of providers in collaboration with the California
39 Association for Adult Day Services. The adult day health care
40 centers shall be trained in the all of the following elements:

1 (A) The use of the modified cost report, supplemental reports,
2 and the accounting and reporting manual.

3 (B) Plan of care documentation required to support the
4 separately billable rate components.

5 (C) Medical necessity and eligibility requirements and
6 documentation.

7 (2) By January 1, 2008, the department, after consultation with
8 the California Association for Adult Day Services, shall establish
9 facility peer groupings as specified in subdivision (m).

10 (h) By July 1, 2008, the department, after consultation with the
11 California Association for Adult Day Services, shall establish a
12 methodology for calculation of the reimbursement limit, rates for
13 the daily core services, and applicable percentiles limiting
14 specific cost categories within the core rate.

15 (i) (1) By March 30, 2010, a preliminary estimate of the
16 reimbursement limit, the reimbursement rate for individual adult
17 health care services, and separately billable services shall be
18 established and provided to the California Association for Adult
19 Day Services and other interested stakeholders. The department
20 shall allow an appropriate stakeholder comment period following
21 this action.

22 (2) The information supplied to all interested stakeholders in
23 paragraph (1) shall be compared to what would have been paid
24 under the rate methodology in effect for the 2009–10 fiscal year.

25 (3) Based on the rate comparisons, a methodology to provide
26 for a multiyear phasein of the new prospective payment may be
27 implemented.

28 (4) At the time of implementation, no adult day health care
29 center's payment shall be decreased by more than 10 percent
30 below the rate paid in the rate year immediately preceding the
31 first year that the rate methodology prescribed in this section is
32 implemented. In the second and third rate years, no adult day
33 health care center reimbursement rate shall be decreased by more
34 than 10 percent below the adult day health care center's
35 reimbursement rate on file at the time of the application of the
36 next year's reimbursement rate.

37 (j) (1) The department, with input from the California
38 Association for Adult Day Services and all interested
39 stakeholders, shall develop the cost reporting form and determine

1 the costs that are to be included and excluded from the annual
2 cost reporting methodology.

3 (2) Cost reporting shall be consistent with Section 1861 of the
4 federal Social Security Act (42 U.S.C. Sec. 1395x) and Part 413
5 of Title 42 of the Code of Federal Regulations.

6 (3) Cost reporting shall include itemization of the costs of all
7 adult day health care services such that information necessary to
8 determine costs associated with the core bundle of services and
9 each of the separately billable services can be collected.

10 (4) The cost report or supplemental report to the cost report, as
11 determined by the frequency the data will be required for
12 calculation of the core rate, shall collect staffing level and salary
13 data for all direct and indirect patient care staff, arranged through
14 either employment or contract.

15 (5) All adult day health care centers participating in the
16 Medi-Cal program shall maintain books and records according to
17 generally accepted accounting principles and the uniform
18 accounting systems adopted by the state, and shall submit annual
19 cost reports directly to the department.

20 (k) (1) The department may exclude any cost report or portion
21 thereof that it deems to be inaccurate, incomplete, or
22 unrepresentative, consistent with the policies established in
23 paragraph (2) of subdivision (j). For facilities that fail to file cost
24 reports with the department pursuant to this section, the
25 department shall reimburse those facilities at 10 percent below
26 the lowest reimbursement limit established in the facility's peer
27 group pursuant to subdivision (d).

28 (2) Cost report data shall be validated by using comparisons to
29 salary surveys and health industry administrative data maintained
30 by the Office of Statewide Health Planning and Development and
31 other state agencies. If cost report data is not statistically valid
32 for a given peer group, survey statistics shall be used as a proxy
33 to substitute for the cost report data.

34 (3) Cost report data for any adult day health care center that
35 has closed or is no longer a Medi-Cal participating facility shall
36 be excluded from the rate calculation.

37 (4) The specific process for maintaining cost data and
38 submitting cost reports shall be developed after consultation with
39 the California Association for Adult Day Services.

(l) Field audits shall be performed by the department in accordance with all of the following laws and regulations:

(1) Section 1861 of the Social Security Act (42 U.S.C. Sec. 1395x) and Title XVIII of the Social Security Act (42 U.S.C. Sec. 1395 et seq.).

(2) Sections 413.9, 483.10, and 433.32, and Part 413, of Title 42 of the Code of Federal Regulations.

(3) Centers for Medicare and Medicaid Services Publication 15-1 (federal Department of Health and Human Services Manual).

(4) Chapter 5 (commencing with Section 54001) of Division 3 of Title 22 of, and Chapter 10 (commencing with Section 78001) of Division 5 of, the California Code of Regulations.

(5) Sections 14170 and 14171.

(6) Relevant portions of the California Medicaid State Plan.

(m) (1) In accordance with field audit requirements, adult day health care centers shall be placed in a minimum of ~~five~~ *three* designated peer groupings. Each adult day health care center in each of the designated peer groupings shall be audited on an annual basis.

(2) If for any reason a field audit was not performed, the average audit adjustment of the peer grouping shall be applied.

(3) The peer groupings shall include, at minimum, geographic ~~differences, size of facility, staff-to-participant ratios, and governance status~~ *differences and size of facility*. The need for additional groupings shall be periodically reevaluated to ensure that the peer groupings remain relevant on a statewide basis.

(4) *The department shall analyze and evaluate the data obtained through peer grouping analysis in order to determine if additional peer groupings or data elements are necessary for refinement of the peer groupings.*

(5) *After analyzing the data pursuant to paragraph (4), the department may increase the number of peer groupings or change the criteria to reflect pertinent factors affecting peer grouping costs.*

(n) (1) An audit adjustment or adjustments, either specific to an adult day health care center or by peer grouping, reflecting the difference between reported and audited costs and participant days for field audited centers, shall be applied to all adult day health care centers for purposes of establishing the core services

1 reimbursement rate and the reimbursement limit for the
2 following rate year. Audit adjustments shall include all of the
3 following:

4 (A) The results of settled appeals. The department shall
5 consider only the findings of audit appeal reports that are issued
6 more than 180 days prior to the beginning of the new rate year.

7 (B) In the case of peer grouping audit adjustments, audited
8 costs shall be modified by a factor reflecting share-of-cost
9 overpayments and share-of-cost underpayments.

10 (C) The results of federal audits, when reported to the state,
11 shall be applied in determining audit adjustments.

12 (D) (i) An adjustment or adjustments to reported costs of
13 adult day health care centers shall be made to reflect changes in
14 state or federal laws and regulations that would affect those costs,
15 including increases in the minimum wage or increases in
16 minimum staffing requirements.

17 (ii) The costs described in clause (i) shall be reflected as an
18 add-on to the new rate or rates.

19 (iii) To the extent not prohibited by federal law or regulations,
20 add-ons to the rate or rates shall continue until those costs are
21 included in cost reports used to set the new rate or rates.

22 (2) Adjusted costs shall be divided into categories and treated
23 as follows:

24 (A) Fixed or capital-related costs shall include costs that
25 represent depreciation, leases and rentals, interest, leasehold
26 improvements, and other amortization. No update shall be
27 applied.

28 (B) Property taxes, where identified, shall be updated at a rate
29 of 2 percent annually.

30 (C) Labor costs, which shall be defined as a ratio of salary,
31 wage, and benefits costs to the total costs of each adult day health
32 care center, shall be updated based upon the labor study
33 conducted by the department and using industry-specific wage
34 data as reported by the adult day health care centers. The
35 separately billable services shall be updated by applying the
36 median market-based rate specific to the specialty service
37 category.

38 (D) All other costs shall include all other costs less fixed or
39 capital-related costs, property taxes, and labor costs. This cost

1 category shall be updated using the California Consumer Price
2 Index.

3 (3) Prior to the implementation of this methodology, the
4 department shall take measures to ensure appropriate training of
5 state audit staff.

6 (o) The department shall provide updates on the rate
7 methodology to the appropriate fiscal and policy committees of
8 the Legislature. The appropriation for services paid under this
9 rate methodology shall be included in the annual Budget Act.

10 ~~(p) Payment shall be for services provided in accordance with~~
11 ~~an approved individual plan of care. Billing shall be submitted~~
12 ~~directly to the department.~~

13 ~~(q) Nothing in this section shall preclude the department from~~
14 ~~entering into specific prospective budgeting and reimbursement~~
15 ~~agreements with providers.~~

16 ~~(r)~~

17 (p) Adult day health care centers may appeal findings that
18 result in an adjustment to the rate or rates pursuant to Section
19 14171 and to Article 1.5 (commencing with Section 51016) of
20 Chapter 3 of Division 3 of Title 22 of the California Code of
21 Regulations.

22 ~~(s)~~

23 (q) (1) Notwithstanding Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the
25 Government Code, the department shall implement this section
26 by means of a provider bulletin or similar instruction without
27 taking regulatory action. By August 1, 2013, the department shall
28 adopt regulations in accordance with the requirements of Chapter
29 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
30 Title 2 of the Government Code.

31 (2) The department shall notify and consult with interested
32 stakeholders in implementing, interpreting, or making specific
33 the provisions described in this section.

34 ~~(t)~~

35 (r) The department shall implement this section only to the
36 extent that federal financial participation is obtained.

37 (s) *The department may file a state plan amendment to*
38 *implement the requirements of this section. Immediately upon*
39 *filing any such state plan amendment, the department shall*

1 *provide the fiscal committees of the Legislature with a copy of*
2 *the state plan amendment.*

3 ~~SEC. 10.~~

4 *SEC. 11.* Section 14571.5 is added to the Welfare and
5 Institutions Code, to read:

6 14571.5. Federally qualified health centers shall be
7 reimbursed on a prospective payment system rate basis pursuant
8 to Section 14132.100 for the provision of adult day health care
9 services.

O